

Office of Sponsored Programs

Procedure 10015, Counterfeit Electronic Part Detection and Avoidance

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1. Introduction

Responsible Officials:

Associate Vice President for Research and Innovation, Sponsored Programs
Director of Procurement

Effective Date: March 22, 2022

IMPORTANT: For federal awards/subawards issued to Virginia Tech with a start date prior to December 26, 2014, 2 CFR Part 215 (OMB Circular A-110) and 2 CFR, Part 220 (OMB Circular A-21) apply. For all new funds (new awards and new monies, such as continuation awards, supplements, etc. received for existing awards) with a start date on or after December 26, 2014, these new funds are subject to 2 CFR Part 200 (commonly referred to as Uniform Guidance—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) but hereinafter referred to as “2 CFR Part 200”).

2. Scope

This procedure outlines the importance of understanding and complying with the Federal Government’s contractual requirements set forth within the Department of Defense (DoD) Federal Acquisition Regulation Supplement (DFARS) pertaining to Counterfeit Electronic Part Detection and Avoidance. Specifically, this procedure applies to all University employees and their respective departments and offices that are involved with the performance of research efforts under sponsored projects that are funded by DoD procurement contracts and subcontracts that 1) include [DFARS 252.246-7007](#) clause, Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016), and 2) require the delivery of hardware that is subject to the aforementioned clause.

3. Procedure Statement

It is Virginia Tech’s responsibility to prevent the proliferation of counterfeit electronic parts and suspect counterfeit electronic parts when procuring electronic parts or end items, components, parts, or assemblies that contain electronic parts and will be provided to DoD as deliverable under a contract or subcontract that includes DFARS clause 252.246-7007.

A **Counterfeit Electronic Part** is an unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified electronic part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used electronic parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics¹.

4. Reason for the Procedure

This procedure seeks to inform the research community of the requirements set forth within DFARS 252.246-7007 clause, Contractor Counterfeit Electronic Part Detection and Avoidance System, and the corresponding DFARS 252.246-7008 clause, Sources of Electronic Parts. The intent of this procedure is to satisfy U.S. Government requirements to prevent the proliferation of counterfeit electronic parts while allowing researchers to fulfill their contractual obligations under DoD procurement contracts and subcontracts with minimal additional impediment.

It is essential that Virginia Tech maintain an acceptable Counterfeit Electronic Part Detection and Avoidance procedure adhered to by all individuals involved in the acquisition of electronic parts for work on DoD sponsored projects to comply with DoD mandatory requirements, minimize risk to DoD operations, and maintain an effective and efficient purchasing system. This procedure describes the set of controls designed to eliminate or mitigate the risk of utilizing counterfeit electronic parts in Virginia Tech delivered hardware. DoD contracts and subcontracts that are subject to DFARS 252.246-7007 are required to adhere to this procedure.

5. Definitions

Authorized Aftermarket Manufacturer means an organization that fabricates a part under a contract with, or with the express written authority of, the original component manufacturer based on the original component manufacturer's designs, formulas, and/or specifications.

Authorized Supplier means a supplier, distributor, or an aftermarket manufacturer with a contractual arrangement with, or the express written authority of, the original manufacturer or current design activity to buy, stock, repackage, sell, or distribute the part.

Contract Manufacturer means a company that produces goods under contract for another company under the label or brand name of that company.

Contractor-Approved Supplier means a supplier that does not have a contractual agreement with the original component manufacturer for a transaction, but has been identified as trustworthy by a contractor or subcontractor.

Electronic Part means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly ([section 818\(f\)\(2\) of Pub. L.](#)

¹ DFARS 252.246-7007(a)

[112-81](#)).

Original Component Manufacturer means an organization that designs and/or engineers a part and is entitled to any intellectual property rights to that part.

Original Equipment Manufacturer means a company that manufactures products that it has designed from purchased components and sells those products under the company's brand name.

Original Manufacturer means the original component manufacturer, the original equipment manufacturer, or the contract manufacturer.

Suspect Counterfeit Electronic Part means an electronic part for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the electronic part is authentic.

6. Applicability

DFARS 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance System, is prescribed at [DFARS 246.870-3\(a\)\(1\)](#) to be used in contracts where DoD is procuring the following:

- (i) Electronic Parts;
- (ii) End items, components, parts, or assemblies containing Electronic Parts; or
- (iii) Services, if the contractor will supply Electronic Parts or components, parts, or assemblies containing Electronic Parts as part of the service.

Therefore, the requirements set forth in this procedure only apply to DoD sponsored projects that are funded by a DoD contract or subcontract that 1) include DFARS 252.246-7007 clause, Contractor Counterfeit Electronic Part Detection and Avoidance System, and 2) require the delivery of hardware that is subject to the aforementioned clause.

7. Procedures

Based upon the requirements set forth within Section 6, *Applicability*, of this procedure, it is understood that DFARS 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance System, only applies to very limited situations.

Review of Contractual Terms.

When the Office of Sponsored Programs is in receipt of a DoD-funded contract or subcontract, as a part of the comprehensive review that is executed, the Contracts Team Member reviews the statement of work along with its corresponding required deliverables.

Responses Following Review of Contract Terms. Based upon the results of the review of the contractual terms and the statement of work, one of the following three (3) responses will occur:

1) Request for Clause Removal Due to Inapplicability.

In the vast majority of situations, the deliverables for cutting edge research do not involve the delivery of hardware. Instead, they include periodic status reports (i.e. monthly or quarterly) and a final report. In the event a DoD contract or subcontract does not include any of the deliverables listed within the prescription for DFARS 252.246-7007 at DFARS 246.870-3(a)(1), the Contracts Team Member will respectfully submit a request to the DoD Contracting Officer to remove DFARS 252.246-7007 for clarity. This is the preferred method for addressing this matter.

2) Document Contract File - Clause Inapplicable Due to Its Prescription.

As documented in Response #1 above, the Contracts Team Member will request for the removal of DFARS 252.246-7007 when the clause is not applicable based upon the clause's prescription at DFARS 246.870-3(a)(1) and the sponsored project's statement of work. In the event the DoD Contracting Officer makes the determination to leave the clause in the contract in spite of the fact the clause is understood to be inapplicable to the sponsored project, the Contracts Team Member will document the contract file to affirm that even though DFARS 252.246-7007 is included within the resulting contract, it is understood that it is not applicable to the University based upon the limited applicability of the clause as documented within its prescription at DFARS 246.870-3(a)(1). For example, if the sponsor project's deliverables only include reports, it is understood the requirements of DFARS 252.246-7007 do not apply.

3) Address Requirements of DFARS 252.246-7007 on a Per Contract Basis.

In the unique situation in which a DoD contract or subcontract includes DFARS 252.246-7007 and, based upon the review of the statement of work, a determination is made that the clause is applicable to the contract, the Office of Sponsored Programs will draft a customized Faculty Agreement, to be signed by the Principal Investigator and the Department Head, affirming their understanding of and willingness to comply with the requirements set forth within DFARS 252.246-7007. This document will set forth the individualized plan to address the requirements set forth at DFARS 252.246-7007 for this specific contract. This includes the use of suppliers in accordance with DFARS 252.246-7008.

Flow-Down to Applicable Subcontractors. In those very limited situations in which Response #3 applies, Virginia Tech's Office of Sponsored Programs will ensure that the entirety of DFARS 252.246-7007, excluding its introductory text, will be included in all applicable subcontracts, including subcontracts for commercial items, for electronic parts or assemblies containing electronic parts, as per DFARS 252.246-7007(e).

8. References

- Reference 1, [DFARS 246.870](#), Contractors' Counterfeit Electronic Part Detection and Avoidance
- Reference 2, [DFARS 252.246-7007](#), Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016)
- Reference 3, Faculty Agreement – Individualized Plan, Counterfeit Electronic Part Detection and Avoidance Template
- Reference 4, Procurement Department, *Procurement Guidance: Counterfeit Electronic Parts*.
- Reference 5, [DFARS 252.246-7008](#), Sources of Electronic Parts (May 2018)

9. Contacts

- Associate Vice President for Research and Innovation, Sponsored Programs
 - Director of Procurement
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10. Roles and Responsibilities

The Principal Investigator will:

- 1) review and execute a Faculty Agreement affirming their understanding of and willingness to comply with the requirements set forth within DFARS 252.246-7007 where it is determined that the requirements of DFARS 252.246-7007 apply.
- 2) ensure all purchases of electronic parts or end items, components, parts, or assemblies that contain electronic parts under the contract or subcontract are executed in accordance with an executed Faculty Agreement in contracts or subcontracts where it is determined that the requirements of DFARS 252.246-7007 apply.
- 3) ensure all project personnel assigned to the sponsored project are informed of the requirements within the Faculty Agreement.
- 4) immediately alert the Procurement Department and the Office of Sponsored Programs in the event there is credible evidence (including, but not limited to, visual inspection or testing) that provides reasonable doubt that the electronic part is authentic.
- 5) ensure any purchasing requisitions for the contract or subcontract include a copy of the executed Faculty Agreement to affirm the applicability of DFARS 252.246-7007 to the sponsored project.

The Procurement Department will:

- 1) maintain *Procurement Guidance: Counterfeit Electronic Parts*.
- 2) address questions from the Principal Investigator regarding *Procurement Guidance: Counterfeit Electronic Parts*.

The Office of Sponsored Programs' Contracts Team Member will:

- 1) negotiate for the removal of DFARS 252.246-7007 in procurement contracts and subcontracts that do involve the delivery of the items listed at DFARS 246.870-3(a)(1).
- 2) execute customized training for the Principal Investigator and project personnel regarding the requirements of DFARS 252.246-7007 in those limited circumstances where the requirements of DFARS 252.246-7007 are applicable to a particular contract or subcontract.
- 3) draft a customized Faculty Agreement for contracts in which the requirements of DFARS 252.246-7007 are applicable, to be signed by the Principal Investigator and the Department Head, affirming their understanding of and willingness to comply with the requirements set

forth within DFARS 252.246-7007. This document will set forth the individualized plan to address the requirements set forth at DFARS 252.246-7007 for this specific contract.

- 4) alert the Office of Sponsored Programs Post-Award Associate of the contract or subcontract's inclusion of DFARS 252.246-7007.
- 5) ensure the entirety of DFARS 252.246-7007, excluding its introductory text, is included in all applicable subcontracts, including subcontracts for commercial items, for electronic parts or assemblies containing electronic parts, as per DFARS 252.246-7007(e).

The Office of Sponsored Programs' Post-Award Associate will:

- 1) document the resulting file with the Office of Sponsored Programs' Award Management System of DFARS 252.246-7007's applicability to the contract.

11. Dissemination

This procedure may be posted on a Virginia Tech internet accessible site. No public restrictions are noted.

The official version of this information will only be maintained in an on-line web format.
Any and all printed copies of this material are dated as of the print date.
Please make certain to review the material on-line prior to placing reliance on a dated printed version.
